資料文件

《2010年婚姻法律程序與財產(修訂)條例草案》委員會

背景

在 2010 年 10 月 5 日的法案委員會會議上,委員要求政府 當局處理下列事宜:

- (a) 根據英國最高法院在 Agbaje and Agbaje [2009]一案中對批予 許可的門檻所作的詮釋,重新考慮在建議的第 29AC(2)條 使用"充分理由"("substantial ground")一詞是否恰當;
- (b) 就"substantial ground"(充分理由/實質理由)一詞及其中文對應詞在其他香港法例中的使用情況,提供資料及例子;
- (c) 就"substantial connection"(密切聯繫)一詞及其中交對應詞在 其他香港法例中的使用情況,提供資料及例子;
- (d) 釐清(i)香港法院是否有權處理在外地離婚後由家庭子女提出或代表家庭子女提出的經濟濟助申請;(ii)從建議的第 29AG(1)及(2)條刪去對第 5 條的提述會帶來什麼後果;及(iii)條例草案對在外地離婚後由家庭子女提出或代表家庭子女提出的經濟濟助申請有何影響;以及
- (e) 就法案委員會的法律顧問所提出的以下問題作出回應: 從建議的第 29AG(2)條摒除根據《婚姻法律程序與財產條 例》(第 192 章)第 4(1)(a)條或第 5(2)(a)條作出的定期付款 令,背後的政策考慮爲何?

建議的第 29AC(2)條

- 2. 關於在建議的第 29AC(2)條採用"充分理由 (substantial ground)"作為批予許可的門檻是否恰當這個問題,政府當局已詳加考慮,並參考了《1984年婚姻和家事法律程序法令》(Matrimonial and Family Proceedings Act 1984) ("《1984年法令》")第 13條和相關的英國案件。這項事宜已在立法會 CB(2)2317/09-10(01)號文件中討論,並特別參考英國最高法院("最高法院")在 Agbaje and Agbaje ([2010] UKSC 13)一案的評述。上述文件第 19 段引述的最高法院評述尤其相關。
- 3. 政府當局認爲,保留"充分理由"作爲批予許可的門檻是恰當的。建議的條例草案第 29AC 條是以《1984 年法令》第 13 條爲 藍本,這條法令條文亦採用了同一詞語。就如立法會 CB(2)2317/09-10(01)號文件所論述,有關應用《1984 年法令》第 13 條的問題,英國法院(包括最高法院)已作出全面討論。在條例草案通過成爲法例後,若須考慮"充分理由"的事宜,這些案例會是十分有用的參考。政府當局認爲,假如以另一個詞語取代該詞,可能會引發有關立法原意方面的爭議。屆時可能會有人爭辯,立法原意是要偏離《1984 年法令》,此意圖從選用不同的詞語可見。若是這樣,便可能會使這些英國案例的說服力減弱,而這並不是政府當局的用意。

香港其他法例使用"substantial ground"(充分理由/實質理由)及"substantial connection"(密切聯繫)的情況

4. 在本港法例中,使用"substantial ground"(充分理由/實質理由)及"substantial connection"(密切聯繫)這兩個詞句的情況並不罕見。 附件 1 及附件 2 載列幾個例子,並載有相應的中文本。

建議的條例草案第 29AG 條一爲子女提供經濟濟助

- 5. 關於香港法院是否有權處理在外地離婚後由家庭子女提出或代表家庭子女提出的經濟濟助申請的問題(見第 1(d)(i)段),政府當局的見解是,根據《婚姻法律程序與財產條例》(第 192 章)("該條例"),法院並無這項權利。
- 6. 該條例第 5 條就離婚案件中對家庭子女的經濟給養申請作出規定。雖然第 25(1)條實際上阻止婚姻的一方在外地離婚後申請經濟濟助,但該條文並無規定根據該條例第 5 條作出的命令,須在暫准判令轉爲絕對判令後才生效。然而,我們認爲,這並不等同賦予法院權力,就外地離婚案件判給家庭子女經濟給養。

7. 該條例第5條訂明:

- "(1) 除第 10 條另有規定外,在關於離婚、婚姻無效或裁判分居的法律程序中,法庭可在下列時間作出第(2)款所述的任何一項或多項命令—
 - (a) 在批予離婚、婚姻無效或裁判分居判令之當時或之前 作出,或在其後的任何時候作出;
 - (b) 如任何此等法律程序在審訊開始後即遭駁回,則隨即 作出或在駁回法律程序後的一段合理期間內作出。"
- 8. 政府當局認爲,根據該條例第 5 條提出爲家庭子女提供經濟給養的申請,必須在離婚等法律程序中提出。就該條而言,如婚姻雙方已在香港以外另一司法管轄區取得離婚,則不存在提起此等法律程序的條件。該條例第 25(1)條施加的限制,並不適用於根據第 5 條而作的申請,原因是該條訂明,法庭可在批予離婚判令等之

前或如此等法律程序遭駁回,作出某項命令。事實上,該條例第 4 及 6 條不包含如第 5(1)(a)及(b)條的條文。第 4 及 6 條訂明,根據這些條文提出的申請,不得抵觸第 25(1)條。該條例第 25 條的副本載於附件 3。

9. 另一方面,如果法律程序已經在香港展開,即使各方後來在另一司法管轄區取得離婚,法院似乎仍會有司法管轄權處理根據該條例第 5 條提出的申請。在原訟法庭審理的 *ML v YJ¹* 一案中, 林文瀚法官指出:

"是否作出管養令,並不取決於是否已作出絕對判令,根據《婚姻法律程序與財產條例》第 5 條作出子女贍養令亦然。"(第 33 段)

10. 建議的第 29AG條以《1984年法令》第 17條爲藍本,該條訂明,法院可作出它能夠根據《1973年婚姻訴訟法令》("《1973年法令》")第 II 部,尤其是第 23(1)條及 24(1)條而作出的一項或多於一項命令。我們注意到,條例第 5(2)(a)、(b)及(c)條與《1973年法令》第 23(1)(d)、(e)及(f)條相似。英格蘭法律委員會在法律委員會工作文件第 77 號指出:

"一段婚姻的終止,並不妨礙英國法院受理由子女的母親或 父親根據 1971 年及 1973 年的《未成年人監護法令》² 的 條文就子女贍養費提出的申請,但有關的子女必須(很可能) 是聯合王國的公民,或身在本國,或通常居於本國,而且

¹ ML v YJ[2008]3 HKLRD 412 第 423 頁

^{2 《1971} 年未成年人監護法令》已由《1989 年兒童法令》附表 15 第 108(7)條廢除;《1973 年未成年人監護法令》則由《1989 年兒童法令》附表 5 第 108(7)條及《1995 年蘇格蘭兒童法令》附表 5 第 105(5)條廢除。

答辯人必須獲送達訴訟文件,或願受有關的司法管轄權管轄。不過,就可作出的命令的種類,以及可被命令付款的人士的類別而言,這些權力比在離婚法律程序中可予行使的權力狹窄。"

- 11. 根據《未成年人監護條例》(第 13 章)("《監護條例》"), 法院獲賦權發出若干命令,規定未成年人的父親或母親支付款項, 以用於該未成年人的贍養。根據《監護條例》第 2 條的釋義, "贍養令"所指的命令,其中包括根據《監護條例》第 10 條所發出的命令。雖然根據《監護條例》第 10 條發出的命令可包括定期付款命令、有保證定期付款命令及一筆付款的命令,但《監護條例》並沒有對該條例的提述。
- 12. 《監護條例》第 3 條載述一般原則,訂明有關的法律程序 是關乎未成年人的管養或教養問題,以及有關屬於未成年人或代未 成年人託管的財產的管理問題。然而,有關的法律程序並非該條例 下婚姻法律程序的其中部分,因此政府當局認為,就該條例而言, 如父母已在其他司法管轄區取得離婚,則香港法院沒有權力受理要 求爲家庭子女提供經濟給養的申請。
- 13. 政府當局更認爲,從建議的第 29AG(1)及(2)條(*見第* 1(d)(ii)段)剔除有關該條例第 5 條的提述,實際上會防止該條例新的第 IIA 部適用於那些父母在外地離婚後爲家庭子女提供經濟濟助的申請個案。有關法例條文如略去關於該條例第 5 條的提述,偏離《1984年法令》第 17 條,有可能會引起爭議,該條例新的第 IIA 部可被指不應適用於與子女有關的經濟濟助申請。
- 14. 至於條例草案對在外地離婚後由家庭子女提出或代表家庭子女提出的經濟濟助申請有何影響(*見第 1(d)(iii)段*),政府當局

認爲,同樣重要的考慮是,假如外地法院沒有爲子女提供任何經濟給養,或者爲子女提供的經濟給養不足,這些子女不應蒙受不利的影響。爲達致這個目的,政府當局認爲,建議的第 29AG 條應明確賦權法院根據條例第 5 條作出命令。

從建議的第 29AG(2)條摒除根據該條例第 4(1)(a)條 及第 5(2)(a)條作出的定期付款命令

- 15. 政府當局備悉法案委員會法律顧問的意見,即該條例第6A(1)條並沒有被列入建議的第29AI條所列出的指明條文內。這意味着只有在法院根據建議的第29AG(2)條作出其中所提及的某項命令時(即根據該條例第4(1)(b)或(c)條、第5(2)(b)或(c)條或第6條作出的命令),才可作出第6A(1)條所訂明關於出售財產的命令。
- 16. 政府當局經進一步研究有關條文後,認爲當法院根據建議的第 29AG(1)條作出第 4(1)(a)或 5(2)(a)條提及的命令時,該條例第 6A(1)條也該適用。政府當局會提出這些修訂,以反映這項政策目的。

律政司 法律政策科 2010年11月

#358879v2

附件 1 Annex 1

Substantial ground

Chapter:	95F	Title:	FIRE SERVICES (FIRE HAZARD ABATEMENT)	Gazette Number:	L.N. 113 of 2003; L.N. 194
			REGULATION		of 2003
Section:	13	Heading:	Appeal against fire hazard	Version Date:	01/01/2004
			orders or prohibition orders	8	

- (5) The daily fine referred to in subsection (4) shall not be payable if the appellant-
 - (a) in the case of an appeal that is dismissed, satisfies the court hearing the appeal; or
 - (b) in the case of an appeal that is abandoned, satisfies the court before which proceedings are taken for the recovery of the fine,

that there was substantial ground for the appeal and that the appeal was not brought merely for the purpose of delay.

章:	95F	標題:	消防(消除火警危險)規 例	憲報編號:	L.N. 113 of 2003; L.N. 194 of 2003 01/01/2004
條:	13	條文標題:	針對火警危險令或禁止 令的上訴	版本日期:	

(5) 上訴人一

- (a) 在上訴被駁回的情況下,如令聆訊該上訴的法庭信納;或
- (b) 在上訴被撤銷而有關追討罰款的法律程序是在某法庭席前進行的情况下,如令該法庭信納,

上訴是有充分理由而並非僅爲拖延而提出的,則第(4)款所提述的每日罰款無須繳付。

Chapter:

503Y

Title:

FUGITIVE OFFENDERS

Gazette Number: L.N. 13 of

2007

(REPUBLIC OF KOREA) ORDER

Schedule:

Heading:

SCHEDULE

Version Date:

11/02/2007

ARTICLE 5

Mandatory Refusal of Surrender

Surrender shall not be granted under this Agreement in any of the following circumstances:

- (a) when the Requested Party has <u>substantial grounds</u> for believing that the offence for which surrender is requested is a political offence or an offence connected with a political offence. Reference to a political offence shall not include the following offences:
 - (i) ...
 - (ii) ...

章:

503Y

標題:

逃犯(大韓民國)令

憲報編號:

L.N. 13 of 2007

附表:

條文標題: 附表

版本日期:

11/02/2007

第五條

強制拒絕移交

在以下任何情况下,不得根據本協定批准移交:

- (a) 被要求方有充分理由相信要求移交所根據的罪行是政治罪行或與政治罪行 有關連的罪行,而對政治罪行的提述不包括以下罪行:
 - (i) ...
 - (ii) ...

Chapter:	525	Title:	MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS	Gazette Number	: L.N. 449 of 1997	NACAS PROPERTY OF THE PERSON NAMED IN COLUMN 1
Section:	5	Heading:	ORDINANCE Refusal of assistance	Version Date:	26/09/1997	

(1) A request by a place outside Hong Kong for assistance under this Ordinance shall be refused if, in the opinion of the Secretary for Justice-

(a) ...

(d) there are substantial grounds for believing that the request was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, nationality or political opinions;

章:

525

標題:

刑事事宜相互法律協助 憲報編號:

32 of 2000

條例

條:

5

條文標題: 拒絕協助

版本日期:

09/06/2000

(1) 如律政司司長認爲有以下情況,對於由香港以外某地方提出的要求根據本條例提供協助的請求,須予以拒絕—

(a) ...

(d) 有充分理由相信該項請求提出的目的是基於某人的種族、宗教、國籍或 政治見解而對該人進行檢控、懲罰或以其他方式使該人蒙受不利; Chapter: 4A Title: THE RULES OF THE HIGH Gazette Number: L.N. 152 of COURT 2008; L.N. 18 of 2009

Order: 62 Heading: COSTS Version Date: 02/04/2009

9C. When summary assessment not allowed

(O. 62, r. 9C)

(1) No direction or order may be made under rule 9(4)(b) or 9A(1)(a) or (b) for the payment of a sum of money if-

(a) the paying party shows substantial grounds for disputing the sum claimed for costs that cannot be dealt with summarily;

(b) ...

章: 4A 標題: 高等法院規則 憲報編號: L.N. 152 of

2008; L.N. 18

of 2009

命令: 62 條文標題: 訟費 版本日期: 02/04/2009

9C. 不容許作簡易程序評估的情況

(第62號命令第9C條規則)

(1) 在下述情況下,不得根據第9(4)(b)或9A(1)(a)或(b)條規則,作出關於支付款項的指示或命令一

(a) 支付方提出對不能以簡易程序處理的訟費申索款項作爭議的實質理由;

(b) ...

Chapter:

132

Title:

PUBLIC HEALTH AND

MUNICIPAL SERVICES

ORDINANCE

Section:

127

Heading:

Provisions for securing

abatement of nuisances which may be dealt with

summarily

Gazette Number:

Version Date:

30/06/1997

(8) The provisions of Part VII (Appeals) of the Magistrates Ordinance (Cap 227) shall apply to proceedings under this section subject to the following provisions-

(a) in the event of an appeal against a nuisance order which is or includes a prohibition order or a closing order or requires the execution of structural works, no person shall, by reason of any contravention of, or failure to comply with, the order, be liable to any penalty until after the determination or abandonment of the appeal:

Provided that, if the appeal is dismissed or abandoned, the appellant shall be liable to the fine specified in the third column of the Ninth Schedule in respect of an offence under subsection (7) for every day during which he has contravened or failed to comply with such nuisance order, unless he satisfies the court before which proceedings are taken for the recovery of such fine that there was substantial ground for the appeal and that the appeal was not brought merely for the purpose of delay, and, if the appeal is dismissed, the court hearing the appeal may itself impose such fine as if it were a court before which proceedings could be taken for the recovery of such fine;

章:

132

127

標題:

公眾衞生及市政條例 憲報編號:

條:

條文標題:

確保減除可循簡易程序 版本日期:

30/06/1997

處理的妨擾事故的條文

- (8) 《裁判官條例》(第227章)第VII部(上訴)條文,在符合下列條文的規定下,適用於根據本條進行的法律程序—
 - (a) 如上訴所反對的妨擾事故命令屬禁止令或封閉令,或包含任何禁止令或 封閉令,或規定須進行結構工程,則在該項有關上訴獲裁定前或被放棄 前,任何人均不得因違反該命令或沒有遵從該命令而被處任何刑罰:

但如該項上訴遭駁回或被放棄,則上訴人可就其違反或沒有遵從上述妨擾事故命令期間的日數,按日被處以附表9第3欄就第(7)款所訂罪行而指明的罰款,除非上訴人能令因追討該項罰款而在其席前進行法律程序的法庭信納上訴是基於實質理由而並非僅為拖延時間而提出的;如上訴遭駁回,聆訊上訴的法庭可自行施加罰款,猶如該法庭是任何可在其席前進行法律程序以追討該等罰款的法庭一樣;

Chapter: 136 Title: MENTAL HEALTH Gazette Number: ORDINANCE
Section: 69 Heading: Protection of persons carrying out the provisions

Chapter: 136 Title: MENTAL HEALTH Gazette Number: 0RDINANCE

Version Date: 30/06/1997

of this Ordinance

(2) No proceedings, civil or criminal, shall be brought against any person in any Court in respect of any such matter as is mentioned in subsection (1), without the leave of the Court, and leave shall not be given unless the Court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care.

章: 136 標題: 精神健康條例 憲報編號:

條: 69 條文標題: 對執行本條例條文的人 版本日期: 30/06/1997

的保障

(2) 如無高等法院的許可,不得就第(1)款所述的事項在高等法院針對某人而提起 民事或刑事法律程序,而除非高等法院信納有實質理由,以指稱該名在擬提起的法 律程序中被針對的人曾不真誠地行事或行事時缺乏合理程度的謹慎,否則不得給予許可。 Chapter:

221

Title:

CRIMINAL PROCEDURE

Gazette Number:

Section:

9G

ORDINANCE
Heading: An accused pe

An accused person may be Version Date:

30/06/1997

refused bail in particular

circumstances

(1) The court need not admit an accused person to bail if it appears to the court that there are substantial grounds for believing, whether or not an admission were to be subject to conditions under section 9D(2), that the accused person would-

(a) fail to surrender to custody as the court may appoint; or

(b) commit an offence while on bail; or

(c) interfere with a witness or pervert or obstruct the course of justice.

章:

221

標題:

刑事訴訟程序條例

害報編號:

25 of 1998 s. 2

條:

9G

條文標題:

在特別情況下可拒絕被 版本日期:

01/07/1997

控人保釋

(1) 法庭如覺得有實質理由相信(不論假若准予保釋會否根據第9D(2)條施加條件作規限)被控人會有下列行為,則無須准予被控人保釋一

- (a) 不按照法庭的指定歸押;或
- (b) 在保釋期間犯罪;或
- (c) 干擾證人或破壞或妨礙司法公正。

Substantial connection

A customary marriage or a validated marriage subsisting on the appointed day and registered in accordance with Part IV may where at least one party to the marriage has a substantial connection with Hong Kong be dissolved on or after the day upon which such marriage has been so registered-

- (a) in accordance with the Matrimonial Causes Ordinance (Cap 179); or
- (b) in accordance with this Part.

章: 178 標題: 婚姻制度改革條例 憲報編號:

條: 15 條文標題: 於指定日期及以後某類 版本日期: 30/06/1997

婚姻的解除

於指定日期當日存續並按照第IV部登記的舊式婚姻或認可婚姻,若婚姻至少有一方與香港有密切聯繫,則該姻可於登記當日或以後按照以下規定解除一

- (a) 《婚姻訴訟條例》(第179章)的規定;或
- (b) 本部的規定。

Chapter: 179 Title: MATRIMONIAL CAUSES Gazette Number: ORDINANCE
Section: 3 Heading: Jurisdiction in divorce Version Date: 30/06/1997

PART II

JURISDICTION OF COURT

The court shall have jurisdiction in proceedings for divorce under this Ordinance if-

- (a) either of the parties to the marriage was domiciled in Hong Kong at the date of the petition or application; (Replaced 29 of 1995 s. 3)
- (b) either of the parties to the marriage was habitually resident in Hong Kong throughout the period of 3 years immediately preceding the date of the petition or application; or (Replaced 29 of 1995 s. 3)
- (c) either of the parties to the marriage had a <u>substantial connection</u> with Hong Kong at the date of the petition or application. (Added 68 of 1970 s. 26. Amended 29 of 1995 s. 3)

章: 179 標題: 婚姻訴訟條例 憲報編號:

條: 3 條文標題: 對離婚案的司法管轄權 版本日期: 30/06/1997

第Ⅱ部

法院的司法管轄權

如屬下列情況,法院對根據本條例進行的離婚法律程序具有司法管轄權一

- (a) 在呈請或申請提出當日,婚姻的任何一方以香港爲居籍; (由1995年第29 號第3條代替)
- (b) 在緊接呈請或申請提出當日之前的整段3年期間內,婚姻的任何一方慣常居於香港;或 (由1995年第29號第3條代替)
- (c) 在呈請或申請提出當日,婚姻的任何一方與香港有密切聯繫。 (由1970年第68號第26條增補。由1995年第29號第3條修訂)

Chapter: Section:

184 11 Title: Heading:

LEGITIMACY ORDINANCE Gazette Number:

Legitimacy of children of

certain void marriages

Version Date:

30/06/1997

(1) Subject to the provisions of this section, the child of a void marriage, whether born before or after the commencement of this Ordinance, shall be treated as the legitimate child of his parents if at the time of the conception of the child (or at the time of the time of the celebration of the marriage if later) both or either of the parties reasonably believed that the marriage was valid. (Amended 17 of 1993 s. 19)

- (2) This section applies, and applies only, where the father of the child was domiciled in or had a <u>substantial connection</u> with Hong Kong at the time of the birth or, if he died before the birth, was so domiciled or had such a connection immediately before his death.
- (3) In this section, "void marriage" (無效婚姻) means a marriage, not being voidable only, in respect of which the Court has or had jurisdiction to grant a decree of nullity, or would have or would have had such jurisdiction if the parties were domiciled in or had a substantial connection with Hong Kong.

章:

184

標題:

婚生地位條例

憲報編號:

h 版本日期:

條:

11 條文標題:

文標題: 某些無效婚姻的子女的

30/06/1997

婚生地位

- (1) 在不抵觸本條的條文下,無效婚姻的子女,不論是在本條例生效之前或之後出生,如在其母親是次受孕時(或後來舉行婚禮者,則以婚禮舉行時爲準),婚姻雙方或其中一方合理地相信該宗婚姻是有效的,則該名無效婚姻的子女須視作是其父母所生的婚生地位子女。(由1993年第17號第19條修訂)
- (2) 本條適用於、亦只限適用於以下情況:在有關子女出生時,其父親是以香港為其居籍或與香港有密切聯繫,或如其父親在其出生前已去世,但在緊接去世之前他是以香港為其居籍或與香港有密切聯繫。
- (3) 在本條中, "無效婚姻" (void marriage) 指一宗不僅是可使無效的婚姻,而法院就該宗婚姻具有或曾經具有發出婚姻無效判令的司法管轄權;又如婚姻雙方是以香港爲其居籍或與香港有密切聯繫,則法院就該宗婚姻會具有或會已經具有此司法管轄權。

Chapter: 429 Title: PARENT AND CHILD Gazette Number: ORDINANCE

Section: 6 Heading: Declarations of parentage, legitimacy or legitimation Version Date: 30/06/1997

PART IV

DECLARATIONS OF STATUS

- (1) Any person may apply to the court for a declaration that-
 - (a) a person named in the application is or was in law his parent;
 - (b) he is the legitimate child of his parents; or
 - (c) he has become, or has not become, a legitimated person.
- (2) A court shall only have jurisdiction to entertain an application under this section if, at the date of the application, the applicant-
 - (a) is domiciled in Hong Kong;
 - (b) has been habitually resident in Hong Kong throughout the period of 1 year ending with that date; or
 - (c) has a substantial connection with Hong Kong.

章: 429 標題: 父母與子女條例 憲報編號:

條: 6 條文標題: 父母身分、婚生地位或確版本日期: 30/06/1997

立婚生地位的宣告

第IV部

身分的宣告

- (1) 任何人均可向法院申請由法院宣告下列事項一
 - (a) 申請書內指明的人在法律上是或曾經是申請人的父母;
 - (b) 申請人是其父母的婚生子女;或
 - (c) 申請人已經成爲或未有成爲獲確立婚生地位人士。
- (2) 法院惟有在申請人根據本條提出申請之日符合下列條件時,方有權受理該宗申請一
 - (a) 申請人以香港爲其居籍;
 - (b) 在提出申請當日之前的一年期間內,申請人一直慣常居於香港;或
 - (c) 申請人與香港有密切聯繫。

Chapter:	542	Title:	LEGISLATIVE COUNCIL ORDINANCE	Gazette Number:	134 of 1997
Section:	26	Heading:	Corporate elector to have authorized representative	Version Date:	03/10/1997

- (1) A corporate elector is required to select one eligible person to be its authorized representative for the purposes of casting its vote at an election.
- (2) A person is eligible to be an authorized representative of a corporate elector for a functional constituency only if the person-
 - (a) is registered, or is eligible to be and has applied to be registered, as an elector for a geographical constituency; and
 - (b) has a substantial connection with the corporate elector; and
 - (c) is not registered, and has not applied to be registered, as an elector for the constituency; and
 - (d) is not disqualified from being registered or voting under section 31 or 53.

- (1) 團體選民須挑選一名合資格的人作爲其獲授權代表以在選舉中投下該團體選 民的選票。
 - (2) 符合以下條件的人方有資格作爲某功能界別的團體選民的獲授權代表一
 - (a) 已登記為地方選區選民,或有資格登記為地方選區選民並已申請如此登記;及
 - (b) 與該團體選民有密切聯繫;及
 - (c) 並無登記爲該功能界別的選民,亦無申請如此登記;及
 - (d) 並無根據第31或53條喪失登記或投票的資格。

Chapter: 569 Title: CHIEF EXECUTIVE Gazette Number: L.N. 216 of ELECTION ORDINANCE 2009

Schedule: Heading: SCHEDULE Version Date: 30/10/2009

(3) For the purposes of this Schedule-

(a) the circumstances in which a person has a <u>substantial connection</u> with a body include, but are not limited to, being a member, partner, officer or employee of the body; and

(b) the circumstances in which a person has a substantial connection with a subsector include, but are not limited to, being a member, partner, officer or employee of-

(i) a body included in the subsector; or

(ii) a corporate member of a body referred to in subparagraph (i).

章: 569 標題: 行政長官選舉條例 憲報編號: L.N. 216 of 2009

(3) 就本附表而言一

(a) 某人與某團體有密切聯繫的情況包括(但不限於)身爲該團體的成員、會員、合夥人、僱員或(如該團體是法人團體)高級人員或(如該團體不是法人團體)人員;及

(b) 某人與某界別分組有密切聯繫的情況包括(但不限於)一

(i) 身爲列入該界別分組的團體的成員、會員、合夥人、僱員或(如該團體是法人團體)高級人員或(如該團體不是法人團體)人員;或

(ii) 身爲屬第(i)節所提述的團體的團體成員的成員、會員、合夥人、僱員 或(如該團體是法人團體)高級人員或(如該團體不是法人團體)人員。

MATRIMONIAL PROCEEDINGS AND PROPERTY ORDINANCE (Cap. 192)

- s.25 (1) Where a petition or joint application for divorce or a petition for nullity of marriage or judicial separation has been presented or made, then, subject to subsection (2), proceedings under section 3, 4, 5, 6 or 6A may be begun, subject to and in accordance with rules of court, at any time after the presentation of the petition or the making of the application; but-
 - (a) no order under section 4, 6 or 6A shall be made unless a decree nisi of divorce or of nullity of marriage or a decree of judicial separation, as the case may be, has been granted:
 - (b) without prejudice to the power to give a direction under section 26, no such order made on or after granting a decree nisi of divorce or of nullity of marriage, and no settlement made in pursuance of such an order, shall take effect unless the decree has been made absolute.
 - (2) Rules of court may provide, in such cases as may be prescribed by the rules-
 - (a) that applications for ancillary relief shall be made in the petition, joint application or answer; and
 - (b) that applications for ancillary relief which are not so made, or are not made until after the expiration of such period following the presentation of the petition, making of the joint application or filing of the answer as may be so prescribed, shall be made only with the leave of the court. (Amended 29 of 1995 s. 20)
- (3) In subsection (2) "ancillary relief" (附屬濟助) means relief under any of the provisions of sections 3, 4, 5, 6 and 6A.

婚姻法律程序與財產條例(192章)

- (1) 凡關於離婚的呈請書或共同申請或婚姻無效或裁判分居的呈請書已經提交或 提出,則在符合第(2)款的規定下,任何根據第3、4、5、6或6A條提出的法律程序均可 於呈請書提交或申請提出後的任何時間,在符合並按照法院規則的情況下開始進行;但
 - (a) 除非法庭已批予離婚或婚姻無效的暫准判令或裁判分居判令(視屬何情況 而定),否則不得根據第4、6或6A條作出任何命令;
 - (b) 在不損害法庭根據第26條發出指示的權力下,凡在批予離婚或婚姻無效暫 准判令之時或之後作出的該等命令,以及依據該等命令而作出的授產安 排,在該判令轉爲絕對判令之前均不得生效。
 - (2) 在法院規則所訂明的若干案件中,法院規則可規定一
 - (a) 附屬濟助申請須在呈請書、共同申請或答辯書內提出;及
 - (b) 任何並非按以上方式提出的附屬濟助申請,或在呈請書提交、共同申請提 出或答辯書提交後的一段訂明期限屆滿後才提出的附屬濟助申請,只可在 獲得法庭許可下提出。
- (3) 在第(2)款中,"附屬濟助" (ancillary relief) 指第 $3 \cdot 4 \cdot 5 \cdot 6$ 及6A條的任何條文所指的濟助。